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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,501	07/10/2006	Luc Uytterhaeghe	Q90189	7745
23373 7590 05/27/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER VOLZ, ELIZABETH J				
ART UNIT		PAPER NUMBER		
3781				
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05/27/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/549,501

**Applicant(s)**

UYTTERHAEGHE ET AL.

**Examiner**

ELIZABETH VOLZ

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This office action is responsive to the amendment filed on February 12, 2009. As directed by the amendment: Claims 1-13 have been amended, no claims have been cancelled, and new Claims 14 and 15 have been added. Thus, Claims 1-15 are presently pending in this application.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

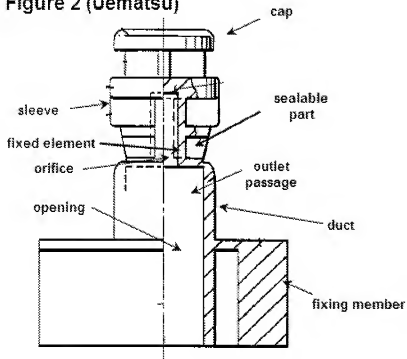
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Uematsu (U.S. Patent No. 5,911,340).
3. Regarding Claim 1, Uematsu discloses a closure device 20 (Figure 2) intended to be mounted on an opening (Figure 2 below) of a fluid product reservoir, said device being formed as a single piece by injection molding (Column 1, Line 56) plastic material (Column 4, Line 12) and comprising a fixing member (Figure 2 below) intended to cooperate with the reservoir opening to form a sealed attachment, a dispensing duct (Figure 2 below) forming an outlet passage (Figure 2 below) for the fluid product contained in the reservoir, said duct forming a dispensing orifice (Figure 2 below), a closing member 20 (Figure 2) to close and seal said duct, said closing member being joined to the dispensing duct by at least one bridge of material 28 (Figure 10A) intended to be broken when the closing member is first removed, characterized in that said

closing member comprises a sealable part (Figure 2 below); said sealable part, before sealing, leaving the dispensing orifice clear and, after sealing, closing the dispensing orifice in sealed manner (Figure 4).

**Figure 2 (Uematsu)**



4. Regarding Claim 2, Uematsu discloses a closing member 20 (Figure 2), dispensing duct (Figure 2 above), and at least one bridge of material 28 (Figure 10A) are formed as a single piece (Figure 2).
5. Regarding Claim 3, Uematsu discloses a sealable part (Figure 2 above) which is deformable and can be welded to itself (Figure 2).
6. Regarding Claim 4, Uematsu discloses a sealable part (Figure 2 above) which comprises a fixed element (Figure 2 above), connected to the duct by at least one bridge of material 28 (Figure 10A), and a sealing cap (Figure 2 above) intended to be

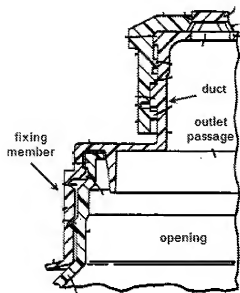
fixed irremovably on the fixed element, said cap closing and sealing the dispensing orifice.

7. Regarding Claim 5, Uematsu discloses a cap (Figure 2 above) which is connected, articulated fashion, to the fixed element (Figure 2).
8. Regarding Claim 6, Uematsu discloses a cap (Figure 2 above) and a fixed element (Figure 2 above) which are formed as a single piece.
9. Regarding Claim 7, Uematsu discloses a cap (Figure 2 above) which is welded onto the fixed element (Figure 2).
10. Regarding Claim 8, Uematsu discloses a cap (Figure 2 above) which forms a sealing bush (Figure 2 above) intended to come into sealed contact with the duct for its sealed closing.
11. Regarding Claim 9, Uematsu discloses a bridge of material 28 (Figure 10A) which extends continuously around a duct also forming a sealed junction between the duct and the closing member (Figure 10A).
12. Regarding Claim 10, Uematsu discloses a closing member 20 (Figure 2) which comprises a peripheral sleeve (Figure 2 above) connected at one end to the outside of the duct by said at least one bridge of material 28 (Figure 10A), said sleeve comprising as opposite peripheral end forming the sealable part.
13. Regarding Claim 11, Uematsu discloses a duct (Figure 2 above) and a closing member 20 (Figure 2) which are provided with snap-fit means 29 (Figure 10A) intended to cooperate after the breaking of said at least one bridge of material.

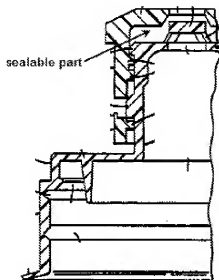
14. Regarding Claim 12, Uematsu discloses a snap-fit means 29 (Figure 10A) which forms a sealing means for closing the duct.
15. Regarding Claim 13, Uematsu discloses a fixing member (Figure 2 above) which comprises a fixing appendage 12a (Figure 31) on which the opening of a flexible pouch 50 (Figure 31) is intended to be fixed, advantageously by welding.
16. Regarding Claim 14, Uematsu discloses leaving the dispensing orifice clear and closing the dispensing orifice in a seal manner each represents a separate status of the sealing member when the bridge is still intact (Figure 4).
17. Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Crisci (U.S. Patent No. 5,104,008).
18. Regarding Claim 1, Crisci discloses a closure device intended to be mounted on an opening (Figure 1 below) of a fluid product reservoir, said device being formed as a single piece by injection molding (Column 4, Lines 10-11) plastic material (Column 4, Line 11) and comprising a fixing member (Figure 1 below) intended to cooperate with the reservoir opening to form a sealed attachment, a dispensing duct (Figure 1 below) forming an outlet passage (Figure 1 below) for the fluid product contained in the reservoir, said duct forming a dispensing orifice 19 (Figure 1), a closing member 22 (Figure 1) to close and seal said duct, said closing member being joined to the dispensing duct by at least one bridge of material 26 (Figure 1) intended to be broken when the closing member is first removed, characterized in that said closing member comprises a sealable part (Figure 2 below); said sealable part, before sealing, leaving the dispensing orifice clear and, after sealing, closing the dispensing orifice in sealed

manner.

**Figure 1 (Crisci)**



**Figure 2 (Crisci)**



19. Regarding Claim 15, Crisci discloses a sealable part (Figure 2 above) which provides a structure in which the fluid product reservoir is able to be filled when the closing member is attached to the fluid product reservoir (Figure 2).

20. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the

requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

### ***Response to Arguments***

21. Applicant's arguments with respect to Claim 1 have been considered but are moot in view of the new ground(s) of rejection. Uematsu (U.S. Patent No. 5,911,340) has been used once again but the sealable part has been changed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571) 270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./  
Examiner, Art Unit 3781

/Anthony D Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781